

STANDING UP FOR TEACHERS' RIGHTS
By MARY PIERCE
News Editor

Marilyn Cleveland is more accustomed to standing in front of a classroom speaking to students than standing in front of the Nebraska Legislature speaking to senators.

Yet, her impassioned plea to the Legislature on Jan. 27, 2006, may relieve some stress on teachers who are bitten by a student because that student could be court-mandated to be tested for infectious diseases – something Cleveland still wishes for.

On Feb. 2, 2005, a student became enraged and lunged across the table. To restrain the child and keep him from hurting other students or himself, from behind, Cleveland, the lead teacher in Ogallala Public Schools' Interim Alternative Education program, wrapped her arms around him bringing his arms to his chest. In turn, the boy bit both her wrists and scratched her arms. Cleveland didn't think much about her injuries until later that day when she went to her doctor, mainly to see if her tetanus shot was current.

"That was the least of his worries," Cleveland said.

The doctor expressed his concerns about the possibility of Cleveland having contracted an infectious disease.

Then Cleveland got scared.

The doctor recommended the student who had bitten her be tested for infectious diseases, including HIV/AIDS.

Ogallala Public Schools Director of Student Services Pat Skinner talked to the foster parents of the child, who is a ward of the state, and told them special education funding would pay for the testing. While the foster parents and even the child's biological parents gave their OK for the test, Health and Human Services System personnel would not allow the child to be tested, claiming such testing was an invasion of privacy.

In May 2005, with support from the Nebraska State Education Association, of which Cleveland is a member, a lawsuit was filed asking a Lancaster County District Court judge for a court order to require HHSS to comply and have the child tested. The request was denied because the state statute in place that protects public servants did not cover teachers.

In January 2006, former state Sen. Patrick Bourne of Omaha introduced LB 825 with the bill's statement of intent reading, "LB 825 amends the infectious disease statutes to include school district employees within the protection afforded emergency services providers who suffer a significant exposure in the performance of their duties."

On Jan. 27, 2006, Cleveland testified in front of the Nebraska Legislature's Judicial Committee on how her life changed after being bitten by the student. She told the committee members that she must be tested for infectious diseases, including the HIV/AIDS and Hepatitis viruses, every six months.

Cleveland said she cried when she told the senators about the fear not only she must carry, but her family as well.

"I have a teenage daughter, " Cleveland said. "This has been very hard on her."

Cleveland was given three minutes to testify.

"I exceeded that," she said, adding the members of the judiciary committee were kind enough to let her continue. Cleveland said she just talked from her heart, expressing the emotions she felt on the issue.

When she finished, the committee members asked her questions. Several of the senators told her they planned to sign onto the bill.

Later that spring, NSEA attorney Scott Norby was informed the governor would sign an emergency provision into law.

"Marilyn's appearance before the committee, in my judgment, convinced the Legislature of the need for change," Norby said. "We were successful."

LB 825 was amended into LB 1115, which was passed by the 99th Legislature during the 2006 spring session. The amendment added the four words, "a school district employee" to the list of public safety officials. If, while performing their duties, a public safety official receives a significant exposure to another's body fluid, and, in the opinion of their physician, could involve the transmission of an infectious disease, the court can mandate the testing of the offender. Even if the offender's guardian is the state of Nebraska, the district court can mandate the test be performed.

"That's all we wanted," Skinner said.

Although the legislative amendment doesn't remedy Cleveland's situation, she said she was thrilled when informed by Norby of the provision.

"I was elated," Cleveland said. "I think it's important. It's also comforting to know that school staff cannot be denied the knowledge that HHS denied in my situation."

With the new school year underway, Skinner said she is still in the process of informing district administrators and the school nurse of the change.

"I talked with our school nurse and she was not fully aware of the amendment to the law," Skinner said.

There is a uniform way of dealing with student bites that is utilized throughout the district, the director of special services said. An accident report is filled out and turned in to the administrator of the building. From there, it is up to the staff member to seek medical attention and the physician to determine if testing of the student is warranted.

Nebraska Health and Human Services School Health Program Manager and registered nurse Kathy Karsting said the issue is important, but receives little notice until a problem arises.

Karsting said, while she shared information on the updated legislation with school nurses via an electronically sent memo and during a brief discussion at the annual summer school health conference, she also is preparing to travel across the state for a series of school health update sessions during October and November, and exposure control plans are a scheduled agenda topic.

Karsting and a small group of public health and school health partners in Nebraska are preparing an updated "model exposure control plan" for use by schools that will be posted electronically on several Web sites for use and reference by schools.

"I provide ongoing consultation services to schools, directly and via the Department of Education, so I also have the opportunity to help schools when they are faced with an event or specific question," Karsting said.

In the time period since Cleveland testified before the Legislature in January 2006, two staff members have been bitten by students.

One of those staff members was Cleveland.

"My stomach got tight," Cleveland said, recalling the incident.

While Cleveland and the other educator both sought medical attention, the other staff member's physician did not pursue additional testing, whereas Cleveland's requested the student be tested. Skinner asked the parents to have their child tested for infectious diseases.

"The parents readily did so," Skinner said. Cleveland said she was relieved when those tests came back negative. Skinner said the school district is on a learning curve, as are most districts across the state.

"As administrators and the school nurse become aware of the law passed, we may do things differently. We all have a little learning to do," Skinner said.

Skinner said she is pleased with the legislation, which has the ability to help not only Cleveland but all teachers who work with behaviorally and mentally challenged students. Those students are much more aggressive than they were in the past, not only with teachers, but also with fellow students.

"More students are coming to school with more problems and mental health concerns," Cleveland said.

While Cleveland's exposure has been limited to bites, she said school staff, students and the general public on school grounds across the state face exposure in a variety of ways.

"It could be scratches, broken noses, fighting, etc.," Cleveland, who began teaching in 1975 and has spent the last 21 years in the Ogallala Public Schools system, said. "We have students with infectious conditions who provide risks. Any exposure to body fluids is risky."

Cleveland said her only disappointment in the law is that it didn't cover even more of the population.

"The general public, and students, still are not protected," Cleveland said. "I'd like to see everyone protected. John Q Public has no concept of the students we're dealing with. This is just an unfortunate part of our society."